

LEGISLATIVE COUNSEL'S DIGEST

ACA No.

as introduced, _____.

General Subject: Elections: reapportionment.



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The California Constitution requires that each Member of the Senate, Assembly, Congress, and State Board of Equalization be elected from a single-member district. Existing provisions of the California Constitution require the Legislature, in the year following the year in which the federal census is taken at the beginning of each decade, to adjust the boundary lines of the state Senate, Assembly, congressional, and State Board of Equalization districts in accordance with specified standards.

This measure would delete these provisions, and would instead create a procedure for the appointment of the Citizens Redistricting Commission, composed of 11 members, as specified. The commission would be charged with establishing Senate, Assembly, congressional, and Board of Equalization districts across the state, adjusted as necessary to accommodate various goals, as specified.

This measure would require the establishment of a pool of 55 candidates for appointment to the commission, as nominated by a panel of 10 current or retired county registrars of voters or city election clerks, according to a specified procedure, and would, among other things provide for the manner of filling vacancies on the commission.

This measure would provide that certain records of the commission are public records, and would require the commission to hold public meetings.

This measure would grant the California Supreme Court original and exclusive jurisdiction over all challenges to a redistricting plan adopted by the commission, and would authorize an affected elector to file a petition for a writ of mandate or prohibition within 45 days after the commission certifies the districts to the Secretary of State. If the plan is held by the court to violate the California or United States Constitution or Federal law, this measure would require the court to provide relief as it deems appropriate to remedy any violation and to otherwise accomplish the purposes of this measure.

This measure would require the Governor in 2009, and annually thereafter, to include in the Governor's Budget submitted to the Legislature an amount of funding sufficient to meet the estimated operating expenses of the redistricting process, and would require that the necessary appropriation be made in the annual Budget Act. It would authorize the commission to contract and to hire staff and consultants, including legal representation, for purposes of this measure. It would provide that commissioners are eligible for reimbursement of expenses pursuant to law.



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Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local
program: no.



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Assembly Constitutional Amendment No. _____

A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by repealing and adding Article XXI thereof, relating to elections.



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Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2007–08 Regular Session commencing on the fourth day of December 2006, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

First—That Article XXI thereof is repealed.

~~SECTION 1. In the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, the Legislature shall adjust the boundary lines of the Senatorial, Assembly, Congressional, and Board of Equalization districts in conformance with the following standards:~~

~~(a) Each member of the Senate, Assembly, Congress, and the Board of Equalization shall be elected from a single-member district.~~

~~(b) The population of all districts of a particular type shall be reasonably equal.~~

~~(c) Every district shall be contiguous.~~

~~(d) Districts of each type shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.~~

~~(e) The geographical integrity of any city, county, or city and county, or of any geographical region shall be respected to the extent possible without violating the requirements of any other subdivision of this section.~~

Second—That Article XXI is added thereto, to read:



ARTICLE XXI
REAPPORTIONMENT OF SENATE, ASSEMBLY, CONGRESSIONAL, AND
STATE BOARD OF EQUALIZATION DISTRICTS

SECTION 1. In the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, the boundary lines of the Senate, Assembly, congressional, and State Board of Equalization districts shall be adjusted in conformance with this article.

(a) Each member of the Senate, Assembly, Congress, and the State Board of Equalization shall be elected from a single-member district. The territory of each Senate district established pursuant to this section shall be comprised of two Assembly districts. Each State Board of Equalization district shall be comprised of 10 Senate districts.

(b) By February 28 of each year ending in the number one, the Citizens Redistricting Commission shall be established pursuant to this section to provide for the redistricting of Senate, Assembly, congressional, and State Board of Equalization districts. As used in this article, "commission" means the Citizens Redistricting Commission.

(c) The commission shall consist of 11 members and all of the following shall apply:

(1) The commission shall have partisan balance. The commission shall include four members representing the largest political party in the State based on party registration, four members representing the second largest political party



in the State based on party registration, and three members who are not registered with either of these two political parties in the state.

(2) The commission shall be representative of this State's diversity, including, but not limited to, racial, ethnic, geographic, and gender diversity. Of the 11 commission members, no more than two may reside in the same county.

(3) Each commission member shall be registered to vote in this State, and shall have been continuously registered with the same political party, or been registered as unaffiliated with a political party, for three or more years immediately preceding his or her appointment.

(4) Each commission member shall commit to applying this article in an honest, independent, and impartial fashion and to upholding public confidence in the integrity of the redistricting process.

(d) A person is not eligible to serve on the commission if, within the five years immediately preceding the date of the appointment, the person, or a member of his or her immediate family, has done any of the following:

(1) Been appointed to, elected to, or have been a candidate for any other public office.

(2) Served as an officer of a political party, or as an officer, employee, or paid consultant of a candidate's campaign committee.

(3) Served as an elected or appointed member of a political party central committee.

(4) Been a registered lobbyist.



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(5) Been an officer, employee, or paid consultant of the campaign committee of a candidate for public office.

(6) Served as an employee or consultant for the Legislature or the United States House of Representatives.

(7) Been under a contract with the Legislature.

(8) Had a financial or immediate family relationship with the Governor, a Member of the Legislature, a Member of Congress, or a member of the State Board of Equalization. As used in this subdivision, a member of a person's "immediate family" means one with whom the person has a bona fide relationship established through blood or legal relation, including, but not limited to, parents, children, siblings, and in-laws.

(e) A member of the commission shall be ineligible during his or her term of office, and for three years thereafter, to hold public office in this State or to register as a lobbyist.

SEC. 2. (a) (1) The California Association of Clerks and Election Officials (CACEO) or its successor, the Screening Panel of Local Election Officials or its successor, Members of the Legislature, and the Fair Political Practices Commission or its successor shall work to ensure that each stage of the selection process promotes the goal of achieving a commission that is representative of this State's diversity, including, but not limited to, racial, ethnic, geographic, and gender diversity.

(2) A screening panel of 10 current or retired county registrars of voters or city election clerks shall establish an application and screening process open to



all registered voters in the State. This screening panel shall be nominated by the CACEO, or its successor, by no later than December 1 of each year ending in the number zero. The CACEO shall adopt rules and procedures, which shall be publicly disclosed, for appointing qualified panelists and for selecting alternates in the event a panelist is unable to carry out his or her duties. The CACEO shall submit the names of the screening panelists to the President pro Tempore of the Senate, the minority floor leader of the Senate, the Speaker of the Assembly, and the minority floor leader of the Assembly, who shall have five days to object to the composition of the screening panel. If objections are raised by any three of those, the CACEO shall nominate a new panel. Otherwise, the screening panel shall immediately convene.

(3) Of the 10 screening panelists, four shall be registered with each of the two largest political parties in the State based on party registration and two shall be persons who are not registered with either of these two political parties.

(4) Each panelist shall be a registered voter in the State who has been continuously registered with the same political affiliation for three or more years immediately preceding his or her appointment.

(5) By January 8 of each year ending in the number one, the screening panel shall establish a pool of qualified persons who are willing to serve on the commission through an open and publicly disclosed process, and submit a list of the names of those persons to the President pro Tempore of the Senate, the minority floor leader of the Senate, the Speaker of the Assembly, the minority floor leader of the Assembly, and the Fair Political Practices Commission or its successor.



(6) The pool of candidates shall consist of 55 nominees, with 20 nominees from each of the two largest political parties in the state based on party registration, which shall be referred to as partisan subpools, and 15 who are not registered with either of these two political parties, which shall be referred to as the nonpartisan subpool.

(b) (1) No later than January 31 of each year ending in the number one, the President pro Tempore of the Senate, the minority floor leader of the Senate, the Speaker of the Assembly, and the minority floor leader of the Assembly may each strike up to two candidates from each partisan subpool. They shall make every effort to ensure that any such striking of candidates does not result in a remaining pool of candidates that is not representative of this State's racial, ethnic, gender, geographic, and cultural diversity. The Chief Clerk of the Assembly shall present the remaining partisan subpools to the Fair Political Practices Commission or its successor.

(2) The Fair Political Practices Commission or its successor shall establish and implement a public and auditable process of randomly drawing four names from each of the remaining partisan subpools and three names from the nonpartisan subpool.

(3) The names of the 11 people drawn for the commission shall be presented to the President pro Tempore of the Senate, the minority floor leader of the Senate, the Speaker of the Assembly, and the minority floor leader of the Assembly, who shall have five days to object to the composition of the commission for lack of representation of the state's diversity, as described in paragraph (2) of subdivision



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(c) of Section 1. If objections are raised by any three of these persons, the Fair Political Practices Commission or its successor will return all names to the pool for another round of random drawing. It may draw up to three times, in total, and, if it is required to conduct a third random drawing, the resulting names chosen shall comprise the commission.

(c) The 11 members of the commission shall select, by six or more affirmative votes, one of their members to serve as the chair and one to serve as vice chair. The chair and vice chair shall not be of the same political party.

(d) The term of office of every member of the commission expires upon the appointment of the first member of the succeeding commission.

SEC. 3. (a) After having been served written notice and provided with an opportunity for a response, a member of the commission may be removed by the Governor, with the concurrence of two-thirds of the Senate, for substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office.

(b) Any vacancy, whether created by removal, resignation, or absence, in the 11 commission positions shall be filled from the pool of nominees by the process described in subdivisions (a) and (b) of Section 2.

(c) The commission may prescribe standards for attendance and conduct in carrying out the duties of a commission member in furtherance of this section.

SEC. 4. (a) The activities of the commission shall be subject to all of the following:

(1) Nine members of the commission, one of whom may be the chair or vice chair, shall constitute a quorum.



(2) Six or more affirmative votes shall be required for any official action. The final map must be approved by at least six affirmative votes, which shall include at least two votes of members registered from each of the two largest political parties in the state and at least two votes from members who are not registered with either of these two political parties.

(3) The commission shall comply with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Division 3 of Title 2 of the Government Code) or its successor. The commission shall provide not less than 14 days' public notice for each meeting.

(4) The records of the commission pertaining to redistricting, and all data considered by the commission for the purpose, are public records, open to inspection by members of the public upon request.

(5) Any written or verbal communication with any commission member outside of a public hearing, other than by staff or by legal counsel, is prohibited as to any matter on which the commission is required to meet pursuant to paragraph (3). This section does not prohibit any communication between commission members that is permitted by the Bagley-Keene Open Meeting Act or its successor to occur outside of a public hearing.

(b) The duties of the commission shall include all of the following:

(1) Hiring or contracting with commission staff, legal counsel, and consultants as appropriate, which shall be exempt from the civil service requirements of Article VII. The commission shall establish clear criteria for the hiring and removal of these individuals, communication protocols, and a code of



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conduct. The commission may apply criteria in subdivision (d) of Section 1 to the hiring of staff to the extent practicable.

(2) Establishing Senate, Assembly, congressional, and State Board of Equalization districts pursuant to a mapping process for each district based on the following criteria, prioritized according to the following order:

(A) Districts shall comply with the United States Constitution. Senate, Assembly, congressional, and State Board of Equalization districts shall each have equal population with other districts for the same office, except as otherwise required by judicial decision.

(B) Districts shall comply with the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 and following). For purposes of compliance with that act, voter history and registration and other relevant data may be considered.

(C) Districts shall be geographically contiguous.

(D) District boundaries shall respect communities of interest to the extent practicable. "Communities of interest" means groups of residents who share similar interests, including, but not limited to, social, cultural, ethnic, geographic, or economic interests, or formal governmental or quasi-governmental relationships, but not including relationships with political parties, incumbents, or candidates.

(E) District lines shall respect city boundaries, county boundaries, and visible geographic boundaries to the extent practicable.

(F) Districts shall be geographically compact to the extent practicable.



(G) The place of residence of incumbents or candidates may not be considered in the creation of a map. Districts shall not be drawn for the purpose of favoring an incumbent or incumbents.

(3) Establishing and implementing an open and noticed hearing process for public input and deliberation. The public hearing process shall include at least the following three stages: (1) hearings to receive public input before the commission draws any maps, (2) hearings following the drawing and display of commission maps, and (3) hearings following the drawing and display of the proposed final maps. At stages (2) and (3), the commission shall display the map or maps created for the public comment in a manner designed to achieve the widest public dissemination reasonably possible. Public comment shall be taken for at least 30 days from the date of public display. The Senate, the Assembly, the State Board of Equalization, congressional members, counties, and cities may make recommendations on the record to the commission, which shall be considered by the commission.

(c) The commission shall establish the boundaries of final maps for Senate, Assembly, congressional, and State Board of Equalization districts. Upon approval, the commission shall certify those districts to the Secretary of State.

(d) The commission shall issue with its final map a report regarding compliance with the criteria listed in paragraph (2) of subdivision (b) that explains the basis on which the commission made its decisions, particularly in cases where it deviated from compliance with the priority order of the redistricting criteria, or where compliance with one criterion resulted in less than full compliance with



another. The commission shall include definitions of the terms and standards used in drawing the maps.

SEC. 5. (a) In 2009, and annually thereafter, the Governor shall include in the Governor's Budget submitted to the Legislature pursuant to Section 12 of Article IV an amount of funding sufficient to meet the estimated expenses of the subsequent redistricting process occurring pursuant to this article, and shall make adequate office space available for the operation of the commission. The necessary appropriation for this purpose shall be made in the annual budget act.

(b) The commission, with fiscal oversight from the Department of Finance or its successor, shall have procurement and contracting authority and may hire staff and consultants, exempt from the civil service requirements of Article VII, for the purposes of this article, including legal representation.

(c) The commission has standing in legal actions regarding a redistricting plan and to establish whether funds or other resources provided for the operation of the commission are adequate. The commission has sole authority to determine whether the Attorney General or legal counsel hired or selected by the commission shall represent the people of the state in the legal defense of a redistricting plan.

(d) (1) The California Supreme Court has original and exclusive jurisdiction in all proceedings in which a redistricting plan adopted by the commission is challenged.

(2) Any affected elector may file a petition for a writ of mandate or writ of prohibition to challenge a redistricting plan, within 45 days after the commission has certified the plan to the Secretary of State, to bar the Secretary of State from



implementing the plan on the grounds that the filed plan violates this Constitution, the United States Constitution, or any federal statute.

(3) The court shall act expeditiously on the petition. If the court determines that a redistricting plan adopted by the commission violates this Constitution, the United States Constitution, or any federal statute, the court shall fashion the relief that it deems appropriate.

SEC. 6. (a) Members of the screening panel and the commission are eligible for reimbursement of personal expenses incurred in connection with the duties performed for the commission pursuant to law. For purposes of the reimbursement of expenses, or commission member's residence is deemed to be the member's post of duty.

(b) The commission shall not meet or incur expenses after the redistricting plan becomes final pursuant to subdivision (c) of Section 4, except with respect to any pending litigation or government approval concerning the plan, or to revise districts if required by court order or if the number of Senate, Assembly, congressional, or State Board of Equalization districts is changed.

(c) For purposes of this article, "day" means a calendar day, except that if the final day of a period within which an act is to be performed is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.

(d) This article is self-executing.

